

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8579 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

ASRAF MUSA KHAFI

Versus

STATE OF GUJARAT

Appearance:

M/S THAKKAR ASSOC. for Petitioner

Mr U A Trivedi, APP for respondents

CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 27/11/96

ORAL JUDGEMENT

By way of this Special Civil Application, the petitioner has challenged the order of detention dated 30.8.1996. It appears from the grounds of detention that 4 cases have been registered against the petitioner. The first case is of the year 1993 for offences punishable under sections 307, 324, 147, 148, 149 and 504 of Indian Penal Code and section 135 of the Bombay Police Act. The second case is of the year 1995 for offences under

sections 307, 324 and 323 of IPC and the third case is again of 1995 for offences under sections 323, 504, 506(2) and 114 of the IPC. The fourth case is of the year 1996 under the iArms Act.

2. Following the law laid down by the Apex Court in M J Shaikh v. M M Mehta, Commissioner of Police & Ors., reported in 1995(2) GLR 1268, on the basis of some cases of 1993 and 1995, it cannot be said that there is continuity of action and that the petitioner is a habitual offender and to brand him as a "dangerous person". Thus, in my view, the order of detention is illegal and is not sustainable.

3. In the result, this Special Civil Application is allowed. The order of detention dated 30.8.1996 is quashed and set aside. The detenu shall be released forthwith if not required in any other case. Rule made absolute accordingly.

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